

Election Assistance Commission

§ 9407.4

meeting to public observation, as provided in § 9407.4(f);

(4) Change the time or place of an announced meeting, as provided in § 9407.4(g);

(5) Close a meeting or portions of a meeting, as provided in § 9407.5; or

(6) Withhold from disclosure information pertaining to a meeting or portions of a meeting, as provided in § 9407.5.

Public observation means attendance by one or more members of the public at a meeting of the Commission but does not include participation in the meeting.

Public participation means the presentation or discussion of information, raising of questions, or other manner of involvement in a meeting of the Commission by one or more members of the public in a manner that contributes to the disposition of Commission business.

§ 9407.3 Open meetings.

(a) The Commissioners shall not jointly conduct, determine, or dispose of agency business other than in accordance with this section.

(b) Except as otherwise provided in this part, every portion of every Commission meeting shall be open to public observation.

(c) No additional right to participate in Commission meetings is granted to any person by this part. Meetings of the Commission, or portions of a meeting, shall be open to public participation only when an announcement to that effect is issued under § 9407.4(b)(4). Public participation shall be conducted in an orderly, non-disruptive manner and in accordance with any procedures as the chairperson of the meeting may establish. Public participation may be terminated at any time for any reason.

(d) When holding open meetings, the Commission shall make a diligent effort to provide appropriate space, sufficient visibility, and adequate acoustics to accommodate the public attendance anticipated for the meeting. When open meetings are conducted through telephone or similar communications equipment, the Commission shall make an effort to provide sufficient access to the public in a manner which allows the public to clearly hear, see, or oth-

erwise follow the proceedings. The meeting room or other forum selected shall be sufficient to accommodate a reasonable number of interested members of the public. The Commission shall ensure that public meetings are held at a reasonable time and are readily accessible to individuals with disabilities.

(e) Members of the public attending open Commission meetings may use small electronic audio recording devices to record the proceedings. The use of any other recording equipment and cameras requires advance coordination with and notice to the Commission's Communications Office. The chair or acting chair of the Commission may prohibit, at any time, the use of any recording equipment during a public meeting if he or she determines that such recording would disrupt the orderly conduct of the meeting.

§ 9407.4 Notice of meetings.

(a) Except as otherwise provided in this section, the Commission shall make a public announcement at least seven days prior to a meeting.

(b) The public announcement shall include:

(1) The time and place of the meeting;

(2) The subject matter of the meeting;

(3) Whether the meeting is to be open, closed, or portions of a meeting will be closed;

(4) Whether public participation will be allowed; and

(5) The name and telephone number of the person who will respond to requests for information about the meeting.

(c) The public announcement requirement shall be implemented by:

(1) Publishing the announcement on the Commission's Web site; and

(2) Distributing the announcement to affected government entities and persons and organizations that the Executive Director determines may have an interest in the subject matter of the meeting.

(d) The announcement will be submitted for publication in the FEDERAL REGISTER immediately following the public posting and distribution noted in paragraph (c) of this section.

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(e) A meeting may be held with less than seven days notice if a majority of the Commission determines by recorded vote that the business of the Commission so requires. The Commission shall make a public announcement to this effect at the earliest practicable time. The announcement shall include the information required by paragraph (b) of this section and shall be issued in accordance with those procedures set forth in paragraphs (c) and (d) of this section that are practicable given the available period of time.

(f) The subject matter of an announced meeting or the determination of the Commission to open or close a meeting or portions of a meeting to public observation may be changed only if:

(1) A majority of the Commissioners determine by a recorded vote that agency business so requires and that no earlier announcement of the change was possible,

(2) The Commission publicly announces the change and the vote of each Commissioner upon such change at the earliest practicable time.

(3) The announcement of the change noted in paragraph (f)(2) of this section is issued in accordance with those procedures set forth in paragraphs (c) and (d) of this section that are practicable given the available period of time.

(g) The time or place of an announced meeting may be changed only if a public announcement of the change is made at the earliest practicable time. The announcement shall be issued in accordance with those procedures set forth in paragraphs (c) and (d) of this section that are practicable given the available period of time.

§ 9407.5 Closed meetings.

(a) A meeting or portions of a meeting may be closed and information pertaining to such meeting or portions of a meeting may be withheld from the public only if the Commission determines that such meeting or portions of a meeting or the disclosure of such information is likely to:

(1) Disclose matters that are:

(i) Specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy, and

(ii) To be properly classified under that Executive Order;

(2) Relate solely to the internal personnel rules and practices of the Commission;

(3) Disclose matters specifically exempted from disclosure by statute (other than the Freedom of Information Act, 5 U.S.C. 552) provided that the statute:

(i) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or

(ii) Establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Disclose the trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Involve either accusing any person of a crime or formally censuring any person;

(6) Disclose information of a personal nature, if disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) Disclose either investigatory records compiled for law enforcement purposes or information which, if written, would be contained in such records but only to the extent that the production of the records or information would:

(i) Interfere with enforcement proceedings,

(ii) Deprive a person of a right to either a fair trial or an impartial adjudication,

(iii) Constitute an unwarranted invasion of personal privacy,

(iv) Disclose the identity of a confidential source or sources and, in the case of a record compiled either by a criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source or sources,

(v) Disclose investigative techniques and procedures, or

(vi) Endanger the life or physical safety of law enforcement personnel;

(8) Disclose information contained in or related to examination, operating,